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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

GABRIEL MORRIS,

Defendant and Appellant.

B212148

(Los Angeles County  
Super. Ct. No. BA339365)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
Patricia J. Titus, Judge. Affirmed.

Marilee Marshall, under appointment by the Court of Appeal, for Defendant  
and Appellant.

Edmund G. Brown Jr., Attorney General, Dane R. Gillette, Chief Assistant  
Attorney General, Pamela C. Hamanaka, Assistant Attorney General, Joseph P. Lee and  
Sharlene A. Honnaka, Deputy Attorneys General, for Plaintiff and Respondent.

Defendant and appellant Gabriel Morris appeals from the judgment entered following a jury trial that resulted in his conviction for sale of a controlled substance, cocaine base. Morris was sentenced to a prison term of seven years.

Morris requests that this court review the sealed transcript of the trial court's in camera review of police personnel records (*People v. Mooc* (2001) 26 Cal.4th 1216). We do so, and affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

### 1. *Facts.*

On April 3, 2008, at approximately 9:30 p.m., Los Angeles Police Department Officer Rudy Gonzalez and other officers were conducting an undercover narcotics purchase operation in the area of "skid row" in downtown Los Angeles. Gonzalez noticed Morris and another man walking slowly and talking. Gonzalez believed they were engaged in a narcotics transaction. He walked up behind the men and stated, "Let me get a dove," street slang for \$20 worth of narcotics. Morris asked Gonzalez to " 'hold on,' " walked to a nearby parking meter, and placed two off-white solid rocks of cocaine on the meter. He told Gonzalez to throw the money on the ground. Gonzalez complied, tossing a prerecorded \$20 bill on the sidewalk. Morris's companion picked up the cash. Gonzalez picked up the cocaine and gave a pre-arranged signal to notify the other officers that a narcotics transaction had taken place. Officers arrested Morris. They recovered a glass cocaine pipe from his pants pocket. The prerecorded \$20 bill was recovered from Morris's companion.

Morris's defense at trial was that he had been walking with an acquaintance, "Fly," and was attempting to purchase rock cocaine from him when Officer Gonzalez approached and requested drugs. According to Morris, he told the officer not to give him any money because he wanted nothing to do with the transaction; accordingly, the officer threw the cash on the ground. He asserted he was not a participant in the drug sale conducted by Fly.

## 2. Procedure.

Trial was by jury. Morris was convicted of sale of a controlled substance, cocaine base (Health & Saf. Code, § 11352, subd. (a)). Morris admitted suffering a prior felony conviction for the sale or transport of a controlled substance (Health & Saf. Code, § 11352, subd. (a)). Upon the People's motion, the trial court dismissed numerous additional prior conviction allegations. Morris was sentenced to seven years in prison. The trial court imposed a restitution fine, a suspended parole restitution fine, a court security assessment, a laboratory analysis fee, and a related penalty assessment. Morris appeals.

## DISCUSSION

Prior to trial, Morris sought discovery of peace officer personnel records pursuant to *Pitchess v. Superior Court* (1974) 11 Cal.3d 531. Morris's motion sought material related to excessive force; racial and other biases; the violation of constitutional rights; illegal search and seizure; false arrest; dishonesty, including filing false police reports, fabricating charges, evidence, or probable cause, and committing perjury; and "any other evidence of misconduct amounting to moral turpitude," in regard to Officer Gonzalez and five other officers who allegedly participated in the undercover drug operation.<sup>1</sup>

The trial court found good cause for an in camera review on the issues of "falsity, false arrests." On June 26, 2008 and July 2, 2008, the trial court conducted an in camera review of the records of the six officers, determined that discoverable material existed, and ordered disclosure of certain materials.

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<sup>1</sup> The trial court granted Morris's request to file a portion of defense counsel's affidavit in support of the *Pitchess* motion under seal. (See *Garcia v. Superior Court* (2007) 42 Cal.4th 63, 68 [allowing counsel's declaration in support of a *Pitchess* motion to be filed under seal if necessary to protect the attorney-client or work product privileges].)

Morris's sole contention on appeal is a request that we review the sealed record of the trial court's *Pitchess* review to determine whether the trial court abused its discretion by failing to order additional disclosure of information in regard to two of the six officers, i.e., Officer Gonzalez and Officer Jackeline Orellana. (See *People v. Mooc*, *supra*, 26 Cal.4th 1216.) Our initial review of the sealed transcripts revealed that, for the most part, the record was adequate and disclosed no abuse of discretion. In a few instances, however, the trial court denied disclosure without stating on the record the basis for its conclusion that certain information was not relevant. Consequently, we remanded the matter to the trial court for a supplemental *Pitchess* review of the records of the two officers in question. The trial court conducted the supplemental *Pitchess* review on January 26, 2010.

Trial courts are vested with broad discretion when ruling on motions to discover peace officer records (*People v. Samayoa* (1997) 15 Cal.4th 795, 827; *People v. Memro* (1995) 11 Cal.4th 786, 832), and we review a trial court's ruling for abuse of discretion. (*People v. Mooc*, *supra*, 26 Cal.4th at p. 1228; *People v. Hughes* (2002) 27 Cal.4th 287, 330.) We have reviewed the sealed transcripts of the in camera hearings conducted on June 26, 2008, July 2, 2008, and January 26, 2010. The transcripts of those hearings constitute an adequate record of the trial court's review of any documents provided to it, and reveal no abuse of discretion.

**DISPOSITION**

The judgment is affirmed.

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ALDRICH, J.

We concur:

KLEIN, P. J.

CROSKEY, J.